

The Real Property Law Section

<http://www.calbar.ca.gov/rpsection>

STATE BAR OF CALIFORNIA

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MESSAGE FROM THE CHAIR



Jeff Schneider

The real estate market is still crazy, our clients are still making deals, and the Real Property Law Section continues to help real estate lawyers better serve their clients and themselves. Thanks to the volunteer efforts of leading California real estate lawyers, we've recently brought you two great California Real Property Journal issues, with articles from the manifest to the sublime, and we're about to put on another fun and educational annual Section Retreat.

A couple months ago, the Journal devoted an entire issue to a 25-year retrospective, including a great retrospective of the real estate industry by the legendary Marvin Starr. If you haven't read that issue yet, do yourself the pleasure of picking it up and reading it. The most recent Journal issue includes legal analysis and practical advice that can help each of us, especially the information about the new ALTA title policies we'll be living with for years or decades to come.

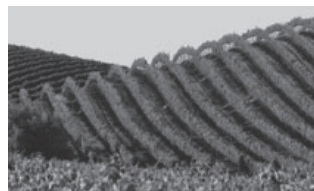
The case alert mentioned below regarding the *Black Hills* case is a reminder of how a simple language change can make or lose millions of dollars for our clients. The leadership of the Real Property Section is devoted to helping lawyers avoid these types of pitfalls and helping us all to continue to grow as lawyers, regardless of how long we've practiced.

If you have any suggestions on how we can better serve the California real estate bar, please feel free to contact me at any time.

Jeff Schneider

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SECTION RETREAT TO BE HELD APRIL 27-29 AT SILVERADO RESORT IN NAPA



The Real Property Law Section's 26th Annual Retreat will be held April 27-29 at the beautiful Silverado Resort in Napa. The retreat gives Section members an opportunity to network, learn and relax in an amazing wine country setting. This year's keynote speaker is Professor Stuart Gabriel, one of the country's foremost real estate economists and director of the Lusk Center for Real Estate at the University of Southern California. There will be 21 MCLE programs offered at the retreat, including the "Law Professors' Roundtable" analyzing the year's most important legal developments, and cutting-edge programs such as "The Web for Real Estate Professionals: From Assessor's Sites to Zillow."

On Saturday night, the Artesa Winery will host the Section's gala dinner and reception. Situated on the highest point in the Napa Valley, the winery is known for award-winning champagnes, ultra-premium wines, and for a landscape as spectacular as its wines. Dramatic fountains, terraces built into a hillside, and deck with a wraparound view across the valley to San Francisco will make the dinner at Artesa an event to remember.

For more information, or to register online, go to www.calbar.ca.gov/rpsection. Three-day registration for Section members is \$395 (through April 9th), including all education sessions, program materials, reception, dinner, Section leadership party on Friday night, Saturday breakfast and luncheon, and Sunday breakfast. The hotel reservation deadline is March 30. Please reserve hotel accommodations directly with the Silverado Resort at 800.532.0500. The Retreat does sell out, so don't delay and risk disappointment!



Artesa Winery



CASE ALERT – **BLACK HILLS INVESTMENTS, INC. v. ALBERTSON'S, INC.** By Michael E. Dullea, Old Republic Title Company

Real Property Contract Void for Subdivision Map Act Violation

In a unanimous opinion, the California Court of Appeals reaffirmed the importance of compliance with the Subdivision Map Act ("SMA") in drafting real estate contracts. *Black Hills Investments, Inc. v. Albertson's, Inc.*, 146 Cal.App.4th 883 (2007).

Albertson's entered into two separate, nearly identical, contracts for the sale of separate parcels to Black Hills Investments. The parcels were both located in a proposed shopping center development that had not been subdivided at the time the parties executed the contracts. The contracts provided that Albertson's, as seller, had the right to terminate if Albertson's did not obtain "all governmental approvals relating to any lot split ...subdivision" prior to the closing date. Prior to the scheduled closing, Albertson's recorded a parcel map that subdivided the shopping center into four parcels, including the two parcels being purchased by Black Hills.

Black Hills then terminated the contracts and demanded return of its deposit. Albertson's declined, and the instant litigation followed. Black Hills alleged that the contracts were void under the SMA. The trial court granted Black Hills' motion for summary judgment, and the court of appeal affirmed on the following grounds:

- 1) The contracts violated the SMA, Government Code Section 66499.30(b), in selling land prior to recordation of a parcel map.
- 2) The contracts violated the SMA, Government Code Section 66499.30(e), in permitting seller to waive the contract condition that a parcel map be recorded prior to close, thus making the contract void.

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- 3) The SMA, Government Code Section 66499.32, which provides Buyer remedies including contract set-aside where property has been divided in violation of SMA, is inapplicable here on its face, as the contracts involved property not yet subdivided.
- 4) The act by seller of recording the parcel map prior to the scheduled close did not cure the contracts or SMA because the contracts were illegal and void at the time they were executed.

Author Michael Dullea will follow up this Case Alert with an in-depth article discussing the Subdivision Map Act in an upcoming edition of the California Real Property Journal.

CALIFORNIA REAL PROPERTY JOURNAL HIGHLIGHTS

The next issue of the Section's acclaimed California Real Property Journal will be published at the end of March. The Journal will be packed with interesting and informative articles, including the following:

- The Top Ten Real Property Cases of 2006
- 2006 Legislative Review
- Supreme Court Clarifies Rules Governing CEQA Review of Water Supplies for Real Estate Development (discussion of the *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* case.)
- An Old Dog Learns New Tricks (addresses 1031 exchanges and tenancies in common)
- What's It Really Worth: Peculiarities In The Valuation Of Commercial Property Under Prop. 13

If you would like to write or edit an article for the Journal, please contact Gillian van Muyden (gvanmuyden@ci.glendale.ca), Scott Rogers (scottrogers@firstam.com), or David Roth (david@rothrealestatelaw.com).

MCLE SPOTLIGHT (WEBINAR)

GREEN BUILDING AND LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN ("LEED") – UNDERSTANDING THE FUTURE OF THE CONSTRUCTION INDUSTRY

The increasing popularity of "green" design and construction and the inclusion of LEED certification requirements in construction contracts present opportunities and challenges for all construction and real estate attorneys. At noon on April 12, 2007, industry-leading panelists will discuss the legal issues and challenges presented in key aspects of green projects, including finance, design, sales/leasing, construction, and closeout. Green building experts Jerry Yudelson and Jeffrey Conner are confirmed speakers for this event. Mr. Conner, of Conner & Associates, is a leader in green building legal issues and serves as

chair of the Construction & Commercial/Industrial Subsection. Mr. Yudelson, of Yudelson & Associates, is a nationally recognized author and expert in the green building design protocol and serves on several U.S. Green Building Council committees.

To register for this important webinar, point your computer's browser to www.calbar.org/online-cle, click on the "Teleseminar and Webinars" tab, then select the webinar.

MCLE CALENDAR

- March 16 – teleseminar - "Vineyard Area Citizens: State High Court Clarifies Rules Governing CEQA Review of Water Supplies for Real Estate Development" (hosted by the Natural Resources Subsection)
- March 20 – in-person, San Francisco - "Recent Developments with Ed Regalia" (hosted by the Litigation Subsection)
- March 22 – in-person, San Francisco - "Developer Impact Fee - How Much Is Too Much?" (hosted by the Zoning and Land Use Subsection)
- March 26 – in-person, Los Angeles - "Recent Developments with Ed Regalia" (hosted by the Litigation Subsection)
- April 12 – in-person, San Francisco - "Fundamentals in International Real Estate Finance Transactions" (hosted by the Finance Subsection)
- April 12 – webinar – "Green Building and Leadership in Energy and Environmental Design" (hosted by the Construction & Commercial/Industrial Development Subsection)

For more information on these MCLE offerings, please visit the Section's website at www.calbar.ca.gov/rpsection.

IMPORTANT DATES

- March 30 – Retreat Hotel Reservation Deadline
- April 9 – Retreat Early Registration Deadline (Discounted Rate)
- April 27-29 – 26th Annual Real Property Retreat
- September 27-30 – State Bar Annual Meeting, Anaheim

For more information on these events, please visit the Section's website at www.calbar.ca.gov/rpsection.

NEWSLETTER SUBMISSIONS

The Section's Newsletter is published quarterly and sent to all of the Section's members. If you have information about important cases, legislation, or upcoming events that should be considered for publication in the Newsletter, please send an e-mail to Ted Klaassen, of Morgan Miller Blair, at rplscommunications@mmlblaw.com.